

EXHIBIT “A”

UNITED STATES OF AMERICA

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

ELAINE L. CHAO, SECRETARY OF LABOR, :
UNITED STATES DEPARTMENT OF LABOR, : OSHA Docket or
 : Inspection No.
Complainant, :
 : 313009110
v. :
 :
HEBERLE DISPOSAL SERVICE, INC. :
 :
Respondent. :

STIPULATED SETTLEMENT

CAROL A. DE DEO
Deputy Solicitor for
National Operations

PATRICIA M. RODENHAUSEN
Regional Solicitor

DIANE C. SHERMAN
Counsel for Occupational Safety
And Health

U. S. Department of Labor
Attorneys for HILDA L. SOLIS
Secretary of Labor
Complainant

POST OFFICE ADDRESS:

Patricia M. Rodenhausen
Regional Solicitor
U. S. Department of Labor
201 Varick Street, Rm. 983
New York, NY 10014
646-264-3650

UNITED STATES OF AMERICA

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

HILDA L. SOLIS, SECRETARY OF LABOR,	:	
UNITED STATES DEPARTMENT OF LABOR,	:	OSHRC Docket or
	:	Inspection No.
Complainant,	:	
	:	313009110
v.	:	
	:	
HEBERLE DISPOSAL SERVICE, INC.	:	
	:	
Respondent.	:	

STIPULATED SETTLEMENT

Based upon the following recital, the Complainant and the Respondent herein agree to the following as a conclusion of this matter:

1. The Complainant, HILDA L. SOLIS, Secretary of Labor, United States Department of Labor, hereby amends the notification of proposed penalty to reflect a total amended proposed penalty of \$10,400.00 to be assessed as follows:

<u>CITATION NO.</u>	<u>ITEM NO.</u>	<u>ORIGINAL PROPOSED PENALTY</u>	<u>AMENDED PROPOSED PENALTY</u>
1	1	\$ 3000.00	\$ 1900.00
1	2	\$ 3000.00	\$ 1900.00
2	1	\$ 2400.00	\$ 1530.00
2	2	\$ 4200.00	\$ 2730.00
2	3	\$ 1800.00	\$ 1170.00
3	1	\$ 1800.00	\$ 1170.00
TOTAL PROPOSED PENALTY		\$16,200.00	\$10,400.00

2. Based upon the above, the Respondent, HEBERLE DISPOSAL SERVICE, INC., herein withdraws its notice of contest as to the citations and notifications of proposed penalty, as modified herein.

3. Respondent affirmatively states he will forward a letter to the Buffalo Area Office on or before October 31, 2009 fully describing corrective actions taken for all citation items.

4. Respondent further agrees to develop and implement a Safety and Health Management System that would, at a minimum, establish policies and procedures for all personnel, and provide hazard recognition training for all personnel. As long as these elements are implemented, the Safety and Health Management System may be customized to meet individual needs. The safety and health management system described above shall be developed and implemented within six (6) months of the final order date of this agreement. Written certification of the implementation of this Safety and Health Management System must be submitted to the Buffalo Area OSHA Office within that timeframe.

5. Respondent affirmatively states that it will comply in the future with the Occupational Safety and Health Act.

6. Respondent certifies that on 10/19/09, this stipulation will be posted where affected employees may see it.

7. Respondent will pay amended proposed penalty of \$10,400.00 in three (3) monthly installments before the fifteenth (15th) of each month as follows by forwarding checks made payable to "U. S. Department of Labor" to the U. S. Department of Labor office at 130 S. Elmwood Avenue, Suite 500, Buffalo, NY.

DUE DATE	AMOUNT DUE	DUE DATE	AMOUNT DUE
11/15/09	\$ 4116.66	12/15/09	\$ 4116.66
01/15/10	\$ 2166.68		

8. None of the foregoing agreements, statements, stipulations, and actions taken by respondent shall be deemed an admission by respondent of the allegations contained within the citations, notification of penalty, and the complaint herein. The agreements, statements, stipulations, findings and actions taken herein are made for the sole purpose of settling this matter amicably and they shall not be used for any purpose, except for proceedings and matters arising under the Occupational Safety and Health Act.

9. Each party hereby agrees to bear its own fees and other expenses incurred by such party in connection with any stage of this proceeding.

DATED:

New York, New York

CAROL A. DE DEO
Deputy Solicitor for
National Operations

PATRICIA M. RODENHAUSEN
Regional Solicitor

By:

DIANE C. SHERMAN
Counsel for Occupational Safety
And Health

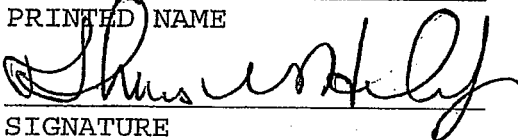
U. S. Department of Labor
Attorneys for HILDA L. SOLIS
Secretary of Labor
Complainant

Respondent

By:

Thomas W HeBorne Jr.

PRINTED NAME

 President

SIGNATURE

(CHOOSE APPROPRIATE CERTIFICATE)

CERTIFICATE OF SERVICE

I hereby certify that on _____, I served a copy of the attached Stipulated Settlement on _____, the authorized employee representative at the following address:

This service was accomplished by mailing the Stipulated Settlement to the representative at this last known address by postage pre-paid first class mail.

NAME: _____

TITLE: _____

CERTIFICATE OF SERVICE

I hereby certify that on _____, I personally delivered a copy of the attached Stipulated Settlement on _____, the authorized employee representative at the following address:

NAME: _____

TITLE: _____

CERTIFICATION OF NONREPRESENTATION

I hereby certify that there is no authorized employee representative for the employees affected by the action which is the subject of the attached Stipulated Settlement.

NAME: Thomas Whitebone JR

TITLE: President

Thomas Whitebone Jr.

UNITED STATES OF AMERICA

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

ELAINE L. CHAO, SECRETARY OF LABOR, :
UNITED STATES DEPARTMENT OF LABOR, : OSHA Docket or
 : Inspection No.
Complainant, :
 : 313009110 (FTA)
v. :
HEBERLE DISPOSAL SERVICE, INC. :
 :
Respondent. :

STIPULATED SETTLEMENT

CAROL A. DE DEO
Deputy Solicitor for
National Operations

PATRICIA M. RODENHAUSEN
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U. S. Department of Labor
Attorneys for HILDA L. SOLIS
Secretary of Labor
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POST OFFICE ADDRESS:

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UNITED STATES OF AMERICA

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

HILDA L. SOLIS, SECRETARY OF LABOR,	:	
UNITED STATES DEPARTMENT OF LABOR,	:	OSHRC Docket or
	:	Inspection No.
Complainant,	:	
	:	313009110 FTA
v.	:	
	:	
HEBERLE DISPOSAL SERVICE, INC.	:	
	:	
Respondent.	:	

STIPULATED SETTLEMENT

Based upon the following recital, the Complainant and the Respondent herein agree to the following as a conclusion of this matter:

1. The Complainant, HILDA L. SOLIS, Secretary of Labor, United States Department of Labor, hereby amends the notification of proposed penalty to reflect a total amended proposed penalty of \$187,200.00 to be assessed as follows:

<u>FTA CITATION NO.</u>	<u>FTA ITEM NO.</u>	<u>ORIGINAL PROPOSED PENALTY</u>	<u>AMENDED PROPOSED PENALTY</u>
1	3	\$ 90,000.00	\$ 58,500.00
1	5	\$ 36,000.00	\$ 23,400.00
1	10	\$ 36,000.00	\$ 23,400.00
1	11a	\$ 90,000.00	\$ 58,500.00
1	11b	\$ 36,000.00	\$ 23,400.00
TOTAL PROPOSED PENALTY		\$288,000.00	\$187,200.00

2. Based upon the above, the Respondent, HEBERLE DISPOSAL SERVICE, INC., herein withdraws its notice of contest as to the citations and notifications of proposed penalty, as modified herein.

3. Respondent affirmatively states he will forward a letter to the Buffalo Area Office on or before October 31, 2009 fully describing corrective actions taken for all failure-to-abate citation items.

4. Respondent further agrees to develop and implement a Safety and Health Management System that would, at a minimum, establish policies and procedures for all personnel, and provide hazard recognition training for all personnel. As long as these elements are implemented, the Safety and Health Management System may be customized to meet individual needs. The safety and health management system described above shall be developed and implemented within six (6) months of the final order date of this agreement. Written certification of the implementation of this Safety and Health Management System must be submitted to the Buffalo Area OSHA Office within that timeframe.

5. Respondent affirmatively states that it will comply in the future with the Occupational Safety and Health Act.

6. Respondent certifies that on 10/19/09, this stipulation will be posted where affected employees may see it.

7. Respondent will pay amended proposed penalty of \$187,200.00 in 46 monthly installments before the fifteenth (15th) of each month as follows by forwarding checks made payable to "U. S. Department of Labor" to the U. S. Department of Labor office at 130 S. Elmwood Avenue, Suite 500, Buffalo, NY.

DUE DATE	AMOUNT DUE	DUE DATE	AMOUNT DUE
01/15/10	\$ 1949.98	02/15/10	\$ 4116.66
03/15/10	\$ 4116.66	04/15/10	\$ 4116.66
05/15/09 ¹⁰	\$ 4116.66	06/15/09 ¹⁰	\$ 4116.66
07/15/10	\$ 4116.66	08/15/10	\$ 4116.66
09/15/10	\$ 4116.66	10/15/10	\$ 4116.66
11/15/10	\$ 4116.66	12/15/10	\$ 4116.66
01/15/11	\$ 4116.66	02/15/11	\$ 4116.66
03/15/11	\$ 4116.66	04/15/11	\$ 4116.66
05/15/11	\$ 4116.66	06/15/11	\$ 4116.66
07/15/11	\$ 4116.66	08/15/11	\$ 4116.66
09/15/11	\$ 4116.66	10/15/11	\$ 4116.66
11/15/11	\$ 4116.66	12/15/11	\$ 4116.66
01/15/12	\$ 4116.66	02/15/12	\$ 4116.66
03/15/12	\$ 4116.66	04/15/12	\$ 4116.66
05/15/12	\$ 4116.66	06/15/12	\$ 4116.66
07/15/12	\$ 4116.66	08/15/12	\$ 4116.66
09/15/12	\$ 4116.66	10/15/12	\$ 4116.66
11/15/12	\$ 4116.66	12/15/12	\$ 4116.66

01/15/13	\$ 4116.66	02/15/13	\$ 4116.66
03/15/13	\$ 4116.66	04/15/13	\$ 4116.66
05/15/13	\$ 4116.66	06/15/13	\$ 4116.66
07/15/13	\$ 4116.66	08/15/13	\$ 4116.66
09/15/13	\$ 4116.66	10/15/13	\$ 4116.98

8. None of the foregoing agreements, statements, stipulations, and actions taken by respondent shall be deemed an admission by respondent of the allegations contained within the citations, notification of penalty, and the complaint herein. The agreements, statements, stipulations, findings and actions taken herein are made for the sole purpose of settling this matter amicably and they shall not be used for any purpose, except for proceedings and matters arising under the Occupational Safety and Health Act.

9. Each party hereby agrees to bear its own fees and other expenses incurred by such party in connection with any stage of this proceeding.

DATED:

New York, New York

CAROL A. DE DEO
Deputy Solicitor for
National Operations

PATRICIA M. RODENHAUSEN
Regional Solicitor

By:

DIANE C. SHERMAN
Counsel for Occupational Safety
And Health

U. S. Department of Labor
Attorneys for HILDA L. SOLIS
Secretary of Labor
Complainant

Respondent

By:

THOMAS W. HEBENE JR
PRINTED NAME

SIGNATURE

President

(CHOOSE APPROPRIATE CERTIFICATE)

CERTIFICATE OF SERVICE

I hereby certify that on _____, I served a copy of the attached Stipulated Settlement on _____, the authorized employee representative at the following address:

This service was accomplished by mailing the Stipulated Settlement to the representative at this last known address by postage pre-paid first class mail.

NAME: _____

TITLE: _____

CERTIFICATE OF SERVICE

I hereby certify that on _____, I personally delivered a copy of the attached Stipulated Settlement on _____, the authorized employee representative at the following address:

NAME: _____

TITLE: _____

CERTIFICATION OF NONREPRESENTATION

I hereby certify that there is no authorized employee representative for the employees affected by the action which is the subject of the attached Stipulated Settlement.

NAME: Thomas W. Heberer Jr

TITLE: President

Thomas W. Heberer Jr.

HARRIS BEACH PLLC
ATTORNEYS AT LAW

99 GARNSEY ROAD
PITTSFORD, NY 14534
(585) 419-8800

SCOTT D. PIPER

DIRECT: (585) 419-8621
FAX: (585) 419-8817
SPIPER@HARRISBEACH.COM

April 28, 2010

Mr. Arthur Dube
Area Director
US Department of Labor, OSHA
130 S Elmwood Ave., Ste. 500
Buffalo, NY 14202-2465

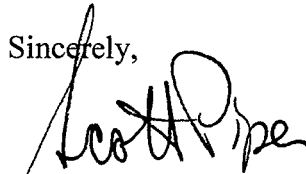
Re: Heberle Disposal Service, Inc.
Inspection No. 313009110

Dear Mr. Dube:

This firm represents the Respondent, Heberle Disposal Service, Inc. ("Heberle") in the above-referenced inspection. Pursuant to paragraph 4 of the Stipulated Settlement Agreements, this letter constitutes Heberle's written certification that it has developed and implemented a safety and health management system, as required by the Agreements and applicable OSHA regulations.

If you have any questions regarding this letter or require any further information, please do not hesitate to contact me. Thank you.

Sincerely,



Scott D. Piper

SDP:slm

cc: Mr. Thomas Heberle
Ms. Patti Loveland